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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,973	07/02/2001	Kieran O'Hare	CM-1015 US NA	4221

23906 7590 06/25/2003

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
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4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/25/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/08/93

Applicant(s)

J. Hare

Examiner

John Guarnido

Group Art Unit

1721

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by EP

357 185.

EP'185 describes a non-woven substrate of spunbonded and pointbonded synthetic fabric (corresponding to the claimed base fabric which is thermally pointbonded) coated with a polymeric binder or foam on at least one surface of the fabric, (corresponding to the claimed coating on at least one surface of the fabric), (see abstract; page 2, lines 30-31; lines 44-46). EP'185 describes the polymeric binder (corresponding to the coating of the claimed invention) can be a polymer of urethane or vinyl chloride, (page 3, lines 34-36;

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see claims 1,2, 4). It is the Examiner's position that EP'185 describes the essential limitations of the claimed invention. Claim lacks novelty.

16. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kinlaw et al. 5,035,943.

Kinlaw describes a fabric with a non-woven substrate which is spunbonded pointbonded (corresponding to the claimed base fabric which is thermally pointbonded), (column 1, lines 62-67), to which is applied a foam of a polymer (corresponding to the claimed coating) of a polymer of urethane or vinyl chloride, (column 2, lines 41-56; see claims 1,4,10,11). It is the Examiner's position that Kinlaw describes the essential limitations of the claimed invention. Claim lacks novelty.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 2,3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinlaw et al. 5,035,943 in view of Suskind et al. 4,229,472.

Kinlaw as above in paragraph # 16. Kinlaw differs because it is silent about the thickness and the utility of shoe upper material.

Suskind describes shoe upper material made from a base sheet (corresponding to the claimed base fabric) of crisscrossing elastomeric polyurethane fibers and bonded together at their point of contact, (column 1, lines 10-12; lines 45-48). Suskind describes a polyurethane coating adhesive applied to the fibrous base sheet (corresponding to the nonwoven base fabric of the claimed invention). Suskind describes thickness of the coating polyurethane in Example 1, column 7.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the base sheet of Suskind for the base

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fabric of Kinlaw motivated with the expectation that improved improved surface toughness and flexibility would be evidenced in the resulting laminate for a shoe upper material. Regarding the thickness of the coating it would have been obvious to one of ordinary skill in the art to optimize this thickness so softness and suppleness would be improved, see Suskind, column 13, lines 57-60.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

June 19, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700